

February 26, 2013

Committee on Labor and Public Employees

Testimony Regarding Proposed Bill No. 6432

"An Act Concerning Homemaker Services and Homemaker Companion Agencies"

Dear Members of the Committee:

I am writing in support of HB 5260 with exceptions,

HB 5260 proposes to codify under law the principal that employers should not have to pay caregivers (working a shift of 24 hours or more) for time when the caregiver is not working; i.e., when they're on site, but enjoying free time to themselves. That's a positive, but there are negatives.

First, the law (see lines 88 and 93) inserts a new provision: that a caregiver must receive at least five consecutive hours of sleep, or there is no deduction for sleep. Current law is misunderstood on this point; currently, there is no requirement that the five hours be consecutive, or 'uninterrupted'. This language ('consecutive') will considerably limit the use of sleep deductions; and, is exceedingly broad: the concept of what 'consecutive' hours remains undefined. If the caregiver's cell phone awakens them, does that toll the five hour period? If the caregiver awakens or rises from bed for their own reasons, does that interrupt the five hours? If a caregiver gets 3.45 hours of sleep, followed almost immediately by 4 hours of sleep, they've slept for 7.45 hours; but, they must be paid for all of that time? This provision does not follow the federal example. Once again, it's a provision that makes domestic services more expensive in Connecticut than in other states. It must be addressed.

Second, line 77 removes a current provision of CT law that permits employers, only (not self-directed hires) to utilize the sleep deduction, the meal (time) deduction, and the 'free' time deduction. This change, allowing all employers to use the deduction, will disadvantage domestic workers.

As we all know, the new federal definition of 'companion' services effectively eliminated the position of live-in companion; meaning, even self-directed employers must pay their live-in worker minimum wage, but not overtime (as they can still claim the 'live-in' overtime exemption). Use of the live in overtime exemption considerably lowers the wage the worker must be paid by a self-directed employer. Allowing that employer to also deduct for sleep, and 'free' time opens the door for employers to short change their live-in worker even further. This should be addressed.

Best Wishes

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